



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

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www.newportbeachca.gov

CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

March 14, 2013
Agenda Item No. 4

SUBJECT: Orange Coast Winery MUP - (PA2013-016)
3734 East Coast Highway
▪ Minor Use Permit No. UP2013-003

APPLICANT: Wiens Family Cellars

PLANNER: Benjamin M. Zdeba, Assistant Planner
(949) 644-3253, bzdeba@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** CC (Commercial Corridor)
- **General Plan:** CC (Corridor Commercial)

PROJECT SUMMARY

A minor use permit to establish a 1,440-square-foot retail store specializing in wine and wine-related products (Alcohol Sales (Off-Sale)). Also included in the request is a 170-square-foot accessory wine tasting area with 8 seats. No late hours (after 11:00 p.m.) are proposed as part of this application.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Minor Use Permit No. UP2013-003 (Attachment No. ZA 1).

DISCUSSION

- The existing building was constructed in the 1940s as a mixed-use development with 3,837 gross square feet of commercial on the first floor and two small residential units above.

- The current zoning does not permit residential uses; therefore, the two residential units on the second floor are considered a legal nonconforming use and can remain as is under Chapter 20.38 (Nonconforming Uses and Structures).
- The property was developed without on-site parking; therefore, it is also legal nonconforming due to parking.
- Pursuant to Chapter 20.38.060 (Nonconforming Parking), a nonconforming use in a nonresidential zoning district may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area, or lot area) occurs and the new use requires a parking rate of no more than one space per 250 square feet of gross building area. Given that the proposed use is considered retail sales with accessory on-site tasting, the parking requirement is one parking space per 250 square feet of gross floor area which is equal to the previous parking requirement for the commercial building.
- The entire commercial portion of the building has historically been occupied by John Blom Custom Photography until it recently changed ownership. The ground floor was subsequently divided into two separate commercial suites.
- The proposed retail store will occupy the easterly, vacant commercial suite (1,440 square feet) which will be improved to have a small, 170-square-foot area devoted to tasting. The use will primarily operate as a retail store with the accessory tasting component to allow for on-site consumption of wine products sold in the store.
- All on-site consumption of wine products will be regulated by the Type 02 (Winegrowers) Alcoholic Beverage Control (ABC) license as well as the conditions of approval. Pursuant to the Type 02 ABC License, pours are limited to two (2) ounces and tasting is limited only to the wines produced by the winegrower.
- Late hours (after 11:00 p.m.) are not proposed as part of this application.
- The Police Department has reviewed the application for the proposed retail sales and accessory, on-site tasting and does not foresee an issue with the operation.
- This use is allowed in the CC (Commercial Corridor) Zoning District and is similar to other uses in the Corona del Mar area that also lack required parking. These uses typically do not have negative impacts on the surrounding area and provide a service to the residents.

ENVIRONMENTAL REVIEW

The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 of the California Environmental Quality Act under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves interior alterations to improve an existing commercial space to a retail store with an accessory, on-site tasting area.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD: An appeal may be filed with the Director of Community Development within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:



Benjamin M. Zdeba
Assistant Planner

GR/bmz

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Applicant's Project Description and Justification
	ZA 4	Police Department Memo
	ZA 5	Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2013-DRAFT

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2013-003 FOR ORANGE COAST WINERY, A RETAIL STORE SPECIALIZING IN WINE SALES AND ACCESSORY ON-SITE TASTING LOCATED AT 3734 EAST COAST HIGHWAY (PA2013-016)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JR Walz of LSArchitects on behalf of Douglas Wiens of Wiens Family Cellars, with respect to property located at 3734 East Coast Highway, and legally described as Lot 4, Block 'W', of Tract 323 requesting approval of a minor use permit.
2. The applicant proposes to improve 1,440 square feet of commercial space to establish a retail store specializing in homegrown wine and wine-related products (Alcohol Sales (Off-Sale)). Also proposed is an accessory, on-site tasting area totaling 170 square feet with eight seats. Sale and on-site consumption of alcohol will be regulated by a Type 02 (Winegrowers) Alcoholic Beverage Control License. Late hours (after 11:00 p.m.) are not proposed as part of the applicant's request.
3. The subject property is located within the CC (Commercial Corridor) Zoning District and the General Plan Land Use Element category is CC (Corridor Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 14, 2013 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 of the California Environmental Quality Act under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act.
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves interior alterations to improve an existing commercial space to a retail store with an accessory, on-site tasting area.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales (Off-Sale)

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The proposed retail store is located within Reporting District 44, wherein the number of crimes is higher than adjacent Reporting Districts and the City. RD 43 and 45 have a lower number of crimes as they are primarily residential with few commercial uses. Due to the high concentration of commercial land uses along East Coast Highway, the crime rate and shoplifting rate is greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
- ii. *The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The Police Department does not consider the rate high because of the concentration of restaurants and commercial uses along East Coast Highway. The Newport Beach Police Department has not previously reported any calls for service to the subject property since the proposed use is part of a newly renovated commercial space.
- iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 1. Although the commercial building is directly adjacent to a residential district, the building is oriented towards and accessed from an entrance on East Coast Highway.

Additionally, rear alley access to the commercial units is a level below the alley elevation. The orientation and grade differential provide screening and protection from view and potential noise generated by the establishment.

2. The proposed use is not located in close proximity to day care centers, park and recreation facilities, places of religious assembly, and schools.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. There are three comparable establishments on East Coast Highway (Vin Goat, Del Mar Wine and Spirits, and The Wine Gallery); however, they are not in close proximity to the proposed retail store. Del Mar Wine and Spirits is approximately 650 feet west of the proposed retail store and operates with a Type 21 (Off-Sale General) Alcoholic Beverage Control License. Vin Goat is approximately 1,200 feet west of the proposed retail store and operates with Types 20 (Off-Sale Beer and Wine) and 42 (On-Sale Beer and Wine) Alcoholic Beverage Control Licenses.
2. Other establishments selling alcoholic beverages for on-site consumption are located along East Coast Highway; however, these establishments operate as restaurants and are not comparable to the proposed retail store. Appropriate conditions of approval have been included to prevent the retail store from operating as an eating and drinking establishment, bar or lounge, etc.
3. The Police Department has reviewed the subject application and does not foresee an issue with the proposed location.

v. Whether or not the proposed amendment will resolve any current objectionable conditions

1. This is a new retail store; therefore, no objectionable conditions exist.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding

1. The proposed project is a retail store specializing in homegrown wine (Alcohol Sales (Off-sale)) and accessory wine tasting to be located within an existing, commercial building fronting East Coast Highway.

2. The General Plan land use designation for this site is CC (Corridor Commercial), which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.
3. The proposed retail store is consistent with the General Plan Corridor Commercial (CC) land use designation, as it will not only serve the residents within the area, but will also serve visitors and commuters traveling on East Coast Highway. The proposed floor plan is designed such that there is a large window display to draw pedestrian traffic.
4. The subject property is not part of a specific plan area.

Finding

- B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding

1. The site is located within the Commercial Corridor (CC) Zoning District of the Newport Beach Zoning Code. The intent of this district is to provide for areas appropriate to a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The proposed retail store and on-site, accessory tasting area are consistent with the land uses permitted within this zoning district as it will serve the adjacent neighborhoods.
2. The proposed use complies with Zoning Code Section 20.48.030 (Alcohol Sales) relating to required operating standards, and conditions of approval are included in this approval to maintain those requirements.
4. The existing mixed-use development is considered nonconforming due to parking and use. Pursuant to Zoning Code Section 20.38.060 (Nonconforming Parking), a nonconforming use in a nonresidential zoning district may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area, or lot area) occurs and the new use requires a parking rate of no more than one space per 250 square feet of gross building area.
5. The currently vacant commercial space has been subject to a parking requirement of one parking space per 250 square feet of gross floor area. The proposed retail store will have an equal requirement to that of the previous use in compliance with Zoning Code Section 20.38.060.

Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding

1. The proposed project involves interior alterations to improve an existing commercial space within a nonconforming mixed-use development to a retail store with an on-site, accessory tasting area. The operational characteristics of the use are that of a retail store, which is a common use in commercial buildings along East Coast Highway in Corona del Mar.
2. The hours of operation for the retail store and related accessory tasting have been limited by the conditions of approval such that they will not extend beyond 10:00 p.m.
3. The proposed establishment will be located within an existing nonconforming mixed-use building in a nonresidential zoning district. Although it is located adjacent to a residential district (within approximately 25 feet), it is not facing the residential properties and is a level below the alley elevation. The orientation and grade differential provide screening and protection from view and potential noise generated by the establishment. The applicant is also required to control trash and litter around the subject property.
4. The applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding

1. The building has existed since the 1940s. The improvement of an existing commercial space will not negatively affect emergency access.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site and are accessed by way of the alley directly behind the site.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and this approval includes conditions to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the retail store.
2. The restrictions on the hours and wine tasting operation will help prevent adverse pedestrian and traffic impacts for the surrounding residential and commercial uses.
3. The proposed retail store and on-site, accessory tasting area will help revitalize the project site and provide an economic opportunity for the property owner to update the tenant space and provide additional services to the residents and visitors in the surrounding area.
4. All owners, managers, and employees selling or serving wine will be required to complete a Responsible Beverage Service certification program.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-003, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 14TH DAY OF MARCH, 2013.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division Conditions

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This minor use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, may require an amendment to this minor use permit or the processing of a new use permit.
4. Minor Use Permit No. UP2013-003 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
5. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
8. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, nightclub, or eating and drinking establishment as defined by the Newport Beach Municipal Code.
9. There shall be no dancing and/or live entertainment allowed on the premises.
10. A copy of this resolution shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. The Alcoholic Beverage Control (ABC) License shall be limited to a Type 02 (Winegrower), Type 20 (Off-Sale Beer and Wine), or comparable license. Any

substantial change in the ABC License type shall require subsequent review and potential amendment to this minor use permit.

12. The tasting area shall be limited to 170 square feet and eight seats within the designated area. No tastings shall be conducted outside of the designated area. Tastings are limited to those allowed under a Type 02 (Winegrower) Alcoholic Beverage Control License only. Pours shall be limited to two ounces each.
13. Use of the outdoor courtyard area for consumption of products sold within the retail store is not permitted.
14. The hours of operation for the retail store and related, accessory wine tasting are limited from 7:00 a.m. to 10:00 p.m., daily.
15. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
16. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Use Permit.
18. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Orange Coast Winery MUP including, but not limited to Minor Use Permit No. UP2013-003 (PA2013-016) and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division and Fire Department Conditions

20. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division.
21. The construction plans must meet all applicable State Disabilities Access requirements.
22. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
23. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited unless there is an emergency.
24. All exits shall remain free of obstructions and available for ingress and egress at all times.

Revenue Department Conditions

25. A valid business license from the City of Newport Beach with a sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.

Police Department Conditions

26. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed.
27. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
28. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
29. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
30. All owners, managers, and employees selling wine shall undergo and successfully complete a certified training program in responsible methods and skills for selling beer and wine. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The retail store shall comply with the

requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

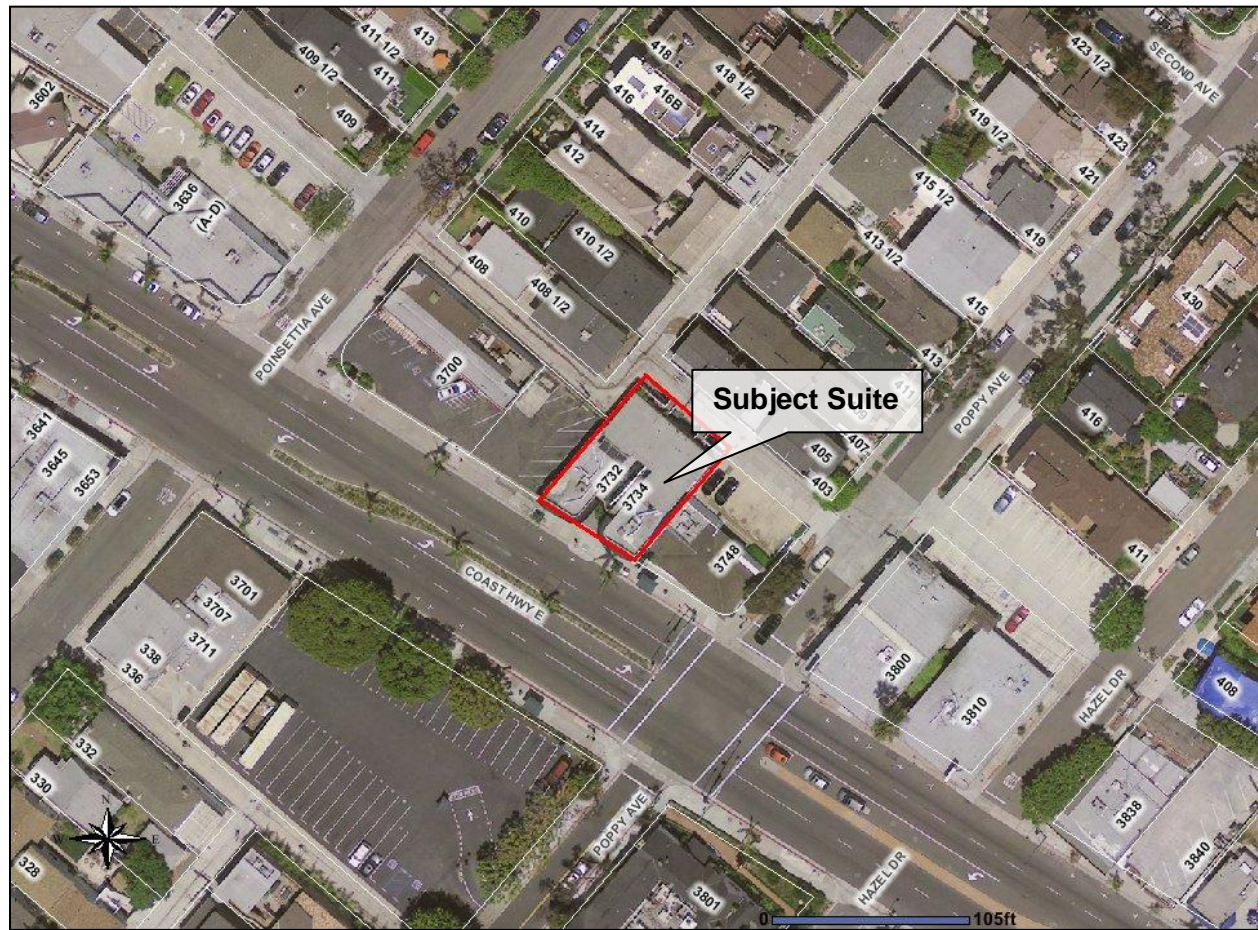
31. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of beer and wine, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

DRAFT

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2013-003
PA2013-016

3734 East Coast Highway

Attachment No. ZA 3

Applicant's Project Description and Justification

January 18, 2012

Community Development Department
Planning Division
3300 Newport Blvd.
Newport Beach, CA 92663
www.newportbeachca.gov

**RE: Project Description and Justification for Minor Use Permit of Orange Coast Winery
at 3734 E. Pacific Coast Hwy, Corona Del Mar**

As agent representing the ownership of Orange Coast Winery, I submit for your review this letter of justification with the attached Minor Use Permit application. Orange Coast Winery is a retail storefront for the sale of wine and wine related products w/ an accessory tasting space. As required by Zoning Code, Alcohol Sales uses require a MUP.

The proposed location at 3734 E. Pacific Coast Hwy is an existing mixed use building with 3,837 gsf of commercial space on the ground floor and (2) living units above located within the CC zone. The previous building owner occupied the ground floor commercial space with a photography studio. The new building owner is currently completing a voluntary accessibility upgrade of the restrooms which will divide the ground floor commercial space into two suites. Orange Coast Winery will occupy the southerly 1,420 gsf suite as delineated on the attached plans. As shown on the attached plan, Orange Coast Winery will have an interior sales area of 966 gsf with an accessory tasting area of 170 nsf. The tasting area will be clearly delineated by low walls and a soffit above. The proposal contains 4 tables with 2 seats each for a total of no more than 8 seats. There will be (2) employees working (1) shift from 1pm to 8pm. The existing building is a legal non-conforming use with no off-street parking. Per discussion with staff the proposed use does not constitute an intensification and therefore is exempt from the parking requirements.

Given the proposed retail use is not a change of the existing legal non-conforming use, I submit that: 1.) The use is consistent with the General Plan and any applicable specific plan; 2.) The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code; 3.) The design, location, size and operating characteristics of the use are compatible with the allowed uses in the vicinity; 4.) The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and vehicle access and public services and utilities; and 5.) Operation of the use at the location would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Therefore, I ask that you review and approve the subject Minor Use Permit application. Thank you in advance for your review of the application and do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Laidlaw', with a stylized, flowing script.

Scott Laidlaw
Laidlaw Schultz Architects

cc: Douglas Wiens

attachments:
Planning Permit Application
(3) sets of full-size plans
(4) sets of reduced plans
Title Report
Mailing labels

Attachment No. ZA 4

Police Department Memo

**City of Newport Beach
Police Department**

M e m o r a n d u m

March 6, 2013

TO: Benjamin M. Zdeba, Planning Technician

FROM: Detective Brian Haas

SUBJECT: Orange Coast Winery, 3734 E. Coast Hwy, Corona Del Mar
Use Permit No. UP2013-003 (PA2013-016).

At your request, the Police Department has reviewed the project application for Orange Coast Winery, located at 3734 E. Coast Highway, Corona Del Mar. The applicant is requesting a minor use permit to open a satellite retail sales and tasting establishment. Orange Coast Winery has an existing Type 02 ABC license (Winegrowers) which allows for one satellite retail sales and tasting location with a duplicate license. Orange Coast Winery is a retail storefront for the sale of wine and wine related products with an accessory tasting space. The regular hours of operation will be from 1:00 p.m. to 8:00 p.m., daily. The wine tastings in the establishment would occur in an approximately 170 square foot area within the 1,420 square foot business. As proposed the establishment would not operate as a bar or liquor store and would not provide any live entertainment or dancing.

I have included a report by Senior Crime Analyst Caroline Staub that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that the location is within a reporting district where reported crimes are 104% *higher* than the city's overall average. Additionally, this location is also within a reporting district that is over the Orange County per capita of ABC licenses.

Applicant History

Orange Coast Winery is a part of Wiens Family Cellars based out of Temecula, California. The Temecula Valley is a premiere wine growing region in Southern California that contains numerous wineries that offer wine tasting and wine sales. The 3734 E. Pacific Coast Hwy. location will provide Wiens Family Cellars a more convenient location for their customers to obtain their wines.

Recommendations

The Police Department has no objection to the operation as described by the applicant.

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.

Hours of Operation

The hours operation will be from 1:00 p.m. to 8:00 p.m., daily

Security

The Police Department has no recommendations.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Other Recommended Conditions

To maintain quality of life for area residents and ensure the location remains a Bona-fide retail sales establishment, the Police Department has determined that the following conditions would be appropriate for the Minor Use Permit for the business:

1. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed.
2. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
3. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
4. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without

a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.

5. There shall be no live entertainment allowed on the premises.
6. There shall be no dancing allowed on the premises.
7. Strict adherence to maximum occupancy limits is required.
8. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
9. Approval does not permit Orange Coast Winery to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit

If you have any questions, please contact Detective Brian Haas at (949) 644-3709.



Brian Haas, ABC/Vice/Intelligence
Detective Division



Charles Freeman, Sergeant
Special Investigations



Chief Jay R. Johnson

NEWPORT BEACH POLICE DEPARTMENT

Crime Analysis Unit

870 Santa Barbara Drive · Newport Beach · CA 92660 · 949-644-3791



CRIME AND ALCOHOL-RELATED STATISTICS - 2012

Subject:	Calls For Service		Crimes			Arrests			Citations		ABC Info	
	Part I Crimes	Part II Crimes	Crime Rate	All Arrests	DUI	Public Intoxication	Liquor Law	Alcohol Related	Active Licenses	License Per Capita		
Orange Coast Winery	0	0	not applicable	0	0	0	0	0	0	not applicable		
Subject RD: RD44	119	200	1,857.34	164	27	45	2	0	26	246		
Adjacent RD: RD43	17	18	884.50	14	5	1	0	0	4	481		
Adjacent RD: RD45	19	17	935.04	9	1	2	0	0	3	677		
Newport Beach	2,331	3,586	2,730.28	3,280	446	856	14	0	394	217		
California	1,128,845	not available	2,994.92	1,183,470	104,345	99,017	15,904	not available	44,536	836		
National	10,266,737	not available	3,294.93	12,408,899	1,215,077	534,218	500,648	not available	not applicable	not applicable		

Summary for Orange Coast Winery at 3734 E Coast Hwy (RD44)

For the year 2012, RD44 had a total of 319 reported crimes, compared to a city-wide reporting district average of 156 reported crimes. This reporting district is 163 crimes, or 104%, OVER the city-wide average.

The number of active ABC licenses in this RD is 26, which equals a per capita ratio of one license for every 246 residents. Orange County averages one license for every 504 residents and California averages one license for every 836 residents. This location is within an RD that is OVER the Orange County and California per capita averages of ABC licenses.

Notes:

Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft, and Arson. This report reflects City of Newport Beach data for 2012, which is the most current available.

California and National figures are based on the 2011 Uniform Crime Report, which is the most recent edition.

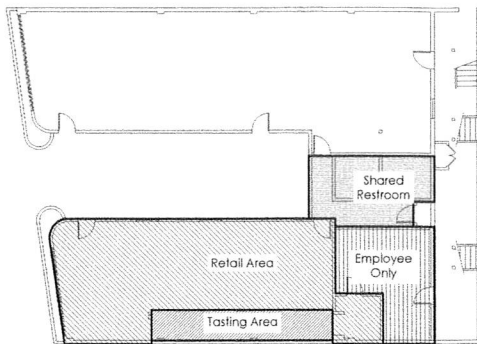
Crime Rate refers to the number of Part I Crimes per 100,000 people.

Number of Active ABC Licenses is the total of all types of licenses known to the NBPD as of the date of this document.

3/5/2013

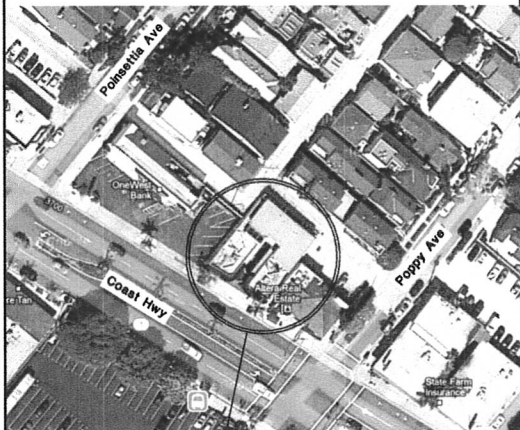
Attachment No. ZA 5

Project Plans



Area Calculations:

Use:	Area
Tasting Area - (accessory food service)	170 nsf
Retail Sales -	966 gsf
Employee Only -	284 gsf
Total:	1,420 gsf
Shared Restroom-	251 gsf



Project Location



LS architects
LAIDLAW SCHULTZ

2 Area Calcs

Scale: 1/16" = 1'-0"

Location Map

Project Data

Project Address:	3734 E. Coast Hwy., Newport Beach CA, 92625
Legal Description:	APN: 459-221-19
Owner:	Brian Siegal Nationwide Consulting Inc. 3 Serenity, Newport Coast, CA 92657 vicenzaco@earthlink.net
Design Professional In Responsible Charge:	Scott Laidlaw - Laidlaw Schultz Architects 3111 Second Ave Corona Del Mar, CA 92625 Phone: 949.645.9982 Fax: 949.645.9554 E-mail: SLaidlaw@LSarchitects.com
Tenant:	Douglas Wiens Orange Coast Winery 35055 Via Del Norte, Temecula, CA 92592 949.945.4996

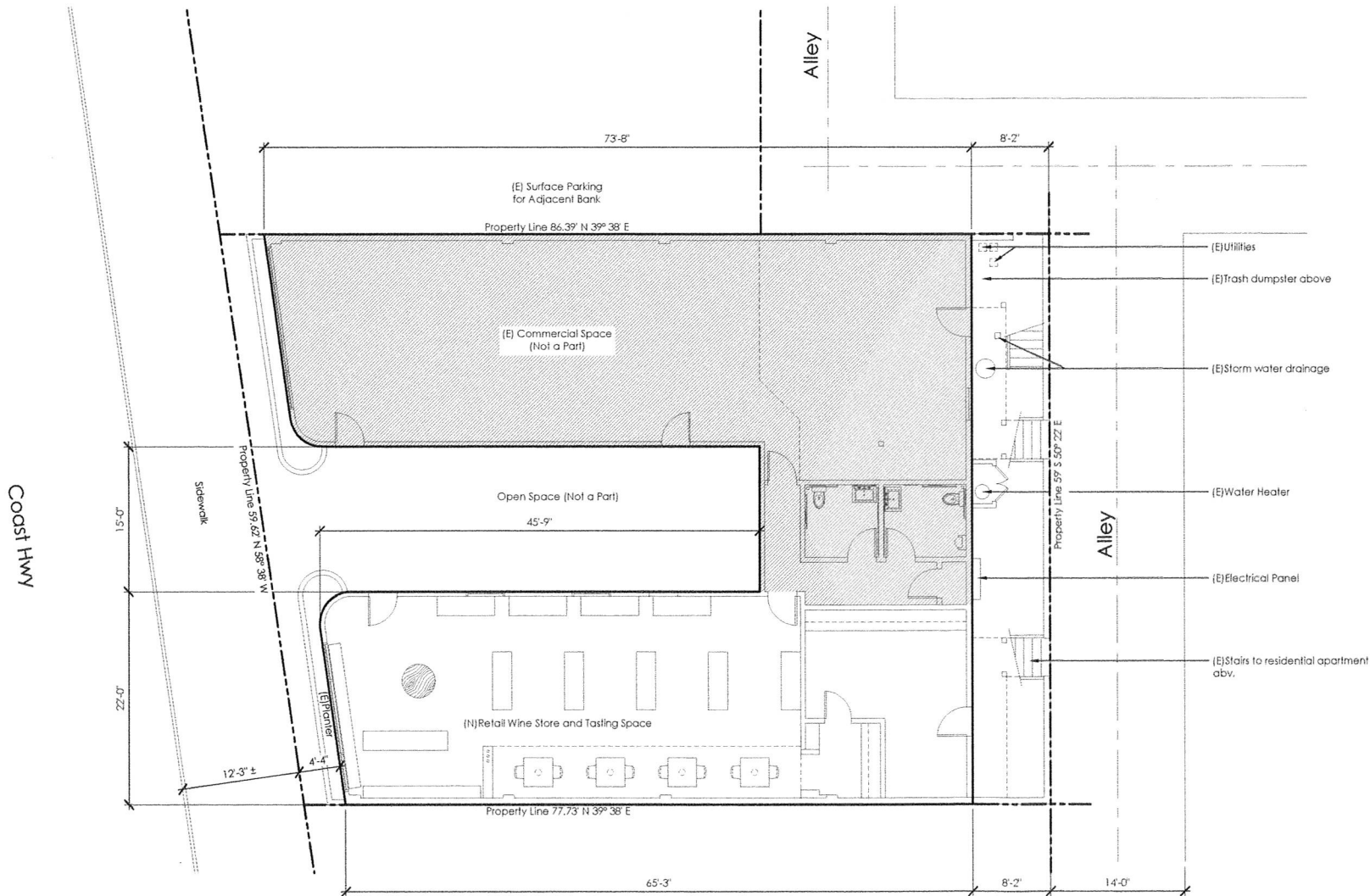
Scope of work: This submittal is the Planning Application for the proposed Tenant Improvements only.

Project Description:	1-Story Retail Wine Store with Accessory Tasting Space
Construction:	Type V-B No Sprinklers (to match exist.)
Occupancy:	Group M
Zoning District:	CC
Seals:	8
Project Area :	1,420 sf
Site Area :	4,875 sf
FAR:	0.75
Parking:	0 spaces (the proposed use is exempt since it does not change or intensify the (E)legal non-conforming use)

List of Drawings

Architectural

Project Data / Site Plan	A.100
Floor Plan	A.200
Exterior Elevation	A.300



PA2013-016 for UP2013-003
3734 East Coast Highway
Wiens Family Cellars



Scale: 1/8" = 1'-0"

Notes

1 Site Plan

PROJECT
Wiens Family Cellars
3734 E. Coast Hwy.
Corona del Mar, CA

DRAWING DESCRIPTION

Floor Plans

DATE	ISSUE/REVISION	REVIEW
01.17.13	MUP Submittal	SDL



A.100
SHEET NO.

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of Laidlaw Schultz Architects.




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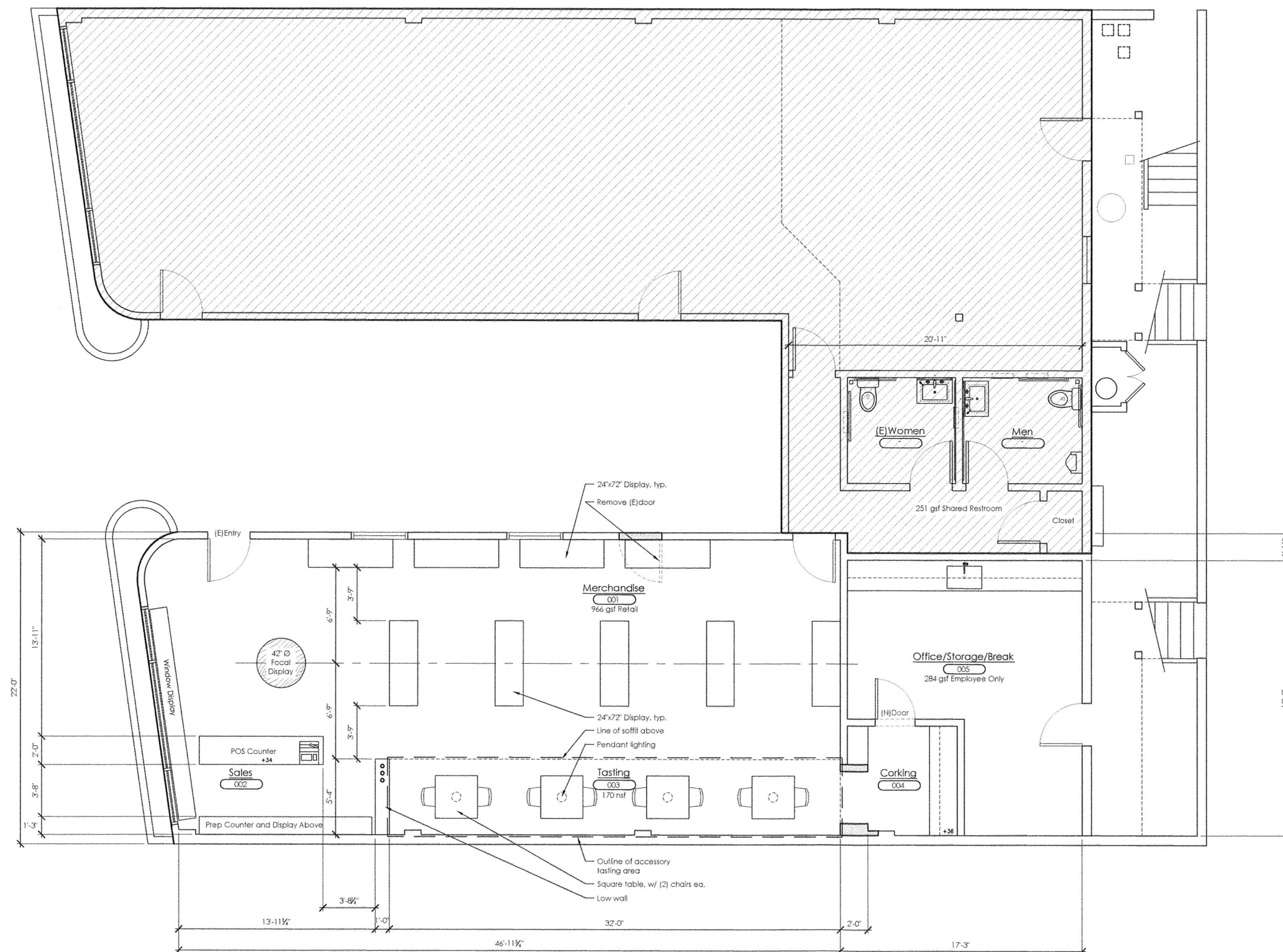
PROJECT
Wiens Family Cellars
3734 E. Coast Hwy.
Corona del Mar, CA

DRAWING DESCRIPTION

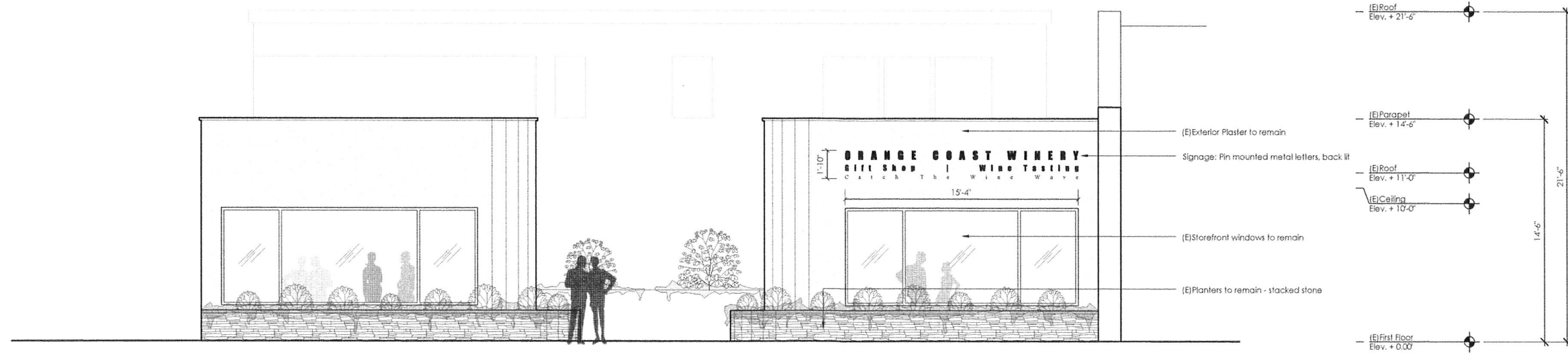
DATE: 01.17.13
ISSUE/REVISION: MUP Submittal
REVIEW: SDL

Legend:

-  - (N) Wall
-  - (E) Wall to remain
-  - Not a part



Scale: 1/4" = 1'-0"



PROJECT
Wiens Family Cellars
3734 E. Coast Hwy.
Corona del Mar, CA

DRAWING DESCRIPTION
Exterior Elevations

DATE	ISSUE/REVISION	REVIEW
01.17.13	MUP Submittal	SDL

ADDITIONAL
MATERIALS
RECEIVED

Item C.4. Orange Coast Winery (PA2013-016)

I do not believe NBMC Chapter 20.38.060 (Nonconforming Parking) is being properly interpreted here or in the recent Sweet Lady Jane decision (please see previous after-the-hearing correspondence). I believe “intensification” requiring new parking is intended to address intensification relative to the actual uses in place at the time the property became nonconforming, and not to intensification relative to any use allowable under that or the current zoning. The proposed use, particularly with two new commercial suites, sounds to me like a intensification relative to the historic use as a photography studio. (cf. “Facts” B.4 and B.5 on handwritten page 10).

I am also unsure if the current hearing is required not only because of the alcohol and parking issues, but also because it involves food sales within 500 feet of residences.

Handwritten page 7, Section 2.1: Please see comment on Section 2.1 of Agenda Item C.3. The same misstatement occurs here.

Handwritten page 9, Section 3.A.iv.1: mentions “*The Wine Gallery*” but does not further explain its operation. Was that inadvertent?

Handwritten page 15

- Condition 27: “...under the control of the **license licensee**.” (?)
- Condition 28: “The **petitioner operator** shall not share ...” (?)

Handwritten page 16

- Condition 31: same comment as for Agenda Item 2 with regard to the need for Special Events for alcohol sales promotions.
- I don’t see a condition implementing the NBPD request for strict adherence to the maximum occupancy limit.